

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MIGNONE SALLY N'JIE	:	
and EDWARD B. MENDY,	:	
	:	Civil Action No. 09-919 (SRC)
Plaintiffs,	:	
	:	
v.	:	OPINION & ORDER
	:	
MEI CHEUNG, JIN LOK, ABC	:	
INSURANCE COMPANY and	:	
XYZ INSURANCE COMPANY,	:	
	:	
Defendants.	:	
	:	

CHESLER, U.S.D.J.

This matter comes before the Court on the motion to stay judgment pending appeal by Plaintiffs. For the reasons stated below, the motion will be denied.

Plaintiffs seek a stay of the judgment pending appeal, pursuant to Federal Rule of Appellate Procedure 8(a)(1)(A). As the Supreme Court has stated, the legal principles for this Court to apply “have been distilled into consideration of four factors:”

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

The first two factors of the traditional standard are the most critical.

Nken v. Holder, 556 U.S. 418 (2009).

Plaintiffs’ motion must be denied because they have failed to make the requisite “strong showing” of a likelihood of success on the merits. Plaintiffs argue that they are likely to succeed on appeal because this Court erred in denying their motion under Federal Rule of Civil Procedure 56(f). Plaintiffs argue that they should have been allowed to depose Defendants prior to the

Court's hearing Defendants' motion for summary judgment. This Court's Opinion of March 1, 2011, in which this Court ruled that Defendants' motion would be granted, explains why Plaintiffs' application under Federal Rule of Civil Procedure 56(d) was denied. Plaintiffs have offered nothing, much less made a strong showing, in support of their assertion that this Court erred in denying the application.

Because Plaintiffs have failed to make a strong showing that they are likely to succeed on the merits on appeal, the motion to stay the judgment pending appeal will be denied.

For these reasons,

IT IS on this 29th day of November, 2011

ORDERED that Plaintiffs' motion to stay judgment pending appeal (Docket Entry No. 75) is **DENIED**.

/s Stanley R. Chesler
STANLEY R. CHESLER, U.S.D.J.